

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No: 04-1568

MELANIE AUSTIN

v.

NORFOLK SOUTHERN CORPORATION;
CONSOLIDATED RAIL CORPORATION,

Appellants

Appeal from the United States District Court
for the Western District of Pennsylvania
(Civ. No. 00-cv-01713)
District Judge: Hon. Robert J. Cindrich

Argued: March 8, 2005

Before: MCKEE, RENDELL and NYGAARD, Circuit Judges

JUDGMENT

This cause came to be heard on the record from the United States District Court for the Western District of Pennsylvania and was argued by counsel on March 8, 2005.

On consideration whereof, it is ORDERED AND ADJUDGED by this Court that the order of the said District Court entered February 2, 2004, is hereby reversed and the matter is remanded to the District Court for proceedings for entry of judgment as a matter of law in favor of Norfolk Southern, and Conrail. All of the above in accordance with the opinion of this Court.

Each party to bear its own costs.

ATTEST:

Marcia M. Waldron
Clerk

Dated: December 13, 2005

The seal of the United States Court of Appeals for the Third Circuit is circular. It features an eagle with spread wings perched on a shield. The shield is divided into sections, some containing stars. The words "UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT" are inscribed around the perimeter of the seal.
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of a formal mandate on _____

Teste: *Marcia M. Waldron*

Clerk, U.S. Court of Appeals for the Third Circuit

Certified as a true copy and issued in lieu
of a formal mandate on 11/5/06 *T M*

Teste: *Marcia M. Waldron*
Clerk, U.S. Court of Appeals for the Third Circuit